Appln No. 09/844,898
Amdt date September 19, 2005
Reply to Office action of N/A

REMARKS/ARGUMENTS

This response to the Advisory Action mailed August 30, 2005 is supplemental to the amendment mailed August 3, 2005, in which claims 1, 7, 42 and 47 were amended. In the August 30, 2005 Advisory Action, the Examiner advised applicants that the claim amendments in the August 3, 2005 will not be entered. With the filing of the Request for Continued Examination (RCE) on September 6, 2005, applicants requested that the August 3, 2005 amendment be entered.

Claims 1-47 are pending in the present application, of which claims 1, 7, 12, 30, 42 and 47 are independent. None of the claims is amended herein.

I.   Response to Arguments in the Advisory Action

In the August 30, 2005 Advisory Action, the Examiner states that "[a]pplicant's arguments filed 08/08/2005 have been fully considered but they are not persuasive." Hence, the Examiner maintains the rejection of claims 12-41 as allegedly being anticipated by U.S. Patent No. 6,577,734 ("Etzel et al."). Applicants respectfully traverse as follows.

In traversing applicants' arguments that Etzel et al. does not anticipate claims 12 and 30, the Examiner states "[a]pplicant argues that Etzel does not anticipate claims 12 and 30 for the feature, '...wherein the system receives the key from an external key storage medium via the second input terminal during the operation of the system'," and contends that "[a]s cited in Col 2 lines 53-60, and Col 3 lines 7-15, the security module is the external key storage medium, which [is] external

-13-

Appln No. 09/844,898
Amdt date September 19, 2005
Reply to Office action of N/A

to the encryptor or the system." As such, the Examiner appears
to equate the security module 30 of Etzel et al. with the
external key storage medium in claims 12 and 30 of the present
invention.   However, applicants do not see how the security
module 30 in the cited sections of Etzel et al. can be construed
to be the external key storage medium in the claims of the
present invention.

>   Col. 2, lines 52-59 of Etzel et al. recites,
>
>   Processor 25 of IPS 20 receives the compressed
>   information from path 16 and supplies it to head-end
>   security module 30 for encryption using a unique
>   program encryption key that head-end security module
>   30 priorly generated for that purpose. As such, the
>   unique program encryption key is known only to head-
>   end security module 30. When head-end security module
>   30 has completed encrypting such information, it then
>   supplies the result to processor 25. (Emphasis Added)
>
>   Col. 3, lines 7-16 of Etzel et al. recites,
>
>   Thus, a description of security module 30 equally
>   pertains to the other security modules. With that in
>   mind, the operation of security module 30 includes,
>   inter alia, the generating of a number of unique
>   encryption keys, e.g., respective random numbers,
>   known only to module 30. One of these unique keys is
>   used as a device unique key, also referred to herein
>   as a local storage variable key (S_{local}). In accord
>   with an illustrative embodiment of the invention,
>   security module 30 generates such keys responsive to
>   receipt of a command to do so . . ." (Emphasis Added)

Therefore, according to the sections of Etzel et al. cited
by the Examiner, namely, Col. 2, lines 53-60 and Col. 3, lines
7-15, the *unique encryption keys generated by and within the
security module 30 are known only to the security module 30.*

-14-

Appln No. 09/844,898
Amdt date September 19, 2005
Reply to Office action of N/A

Hence, the encryption key in the security module 30 in Etzel et al. described above cannot be the key referenced in the following limitation, "...wherein the system receives the key from an external key storage medium via the second input terminal during the operation of the system." Nor can the security module 30 be considered as an external key storage medium. This is because the security module 30 as described in Col. 2, lines 53-60 and Col. 3, lines 7-15 of Etzel et al. does not provide the encryption key to a system as an external key storage medium.

In fact, the encryption key generated by the security module 30 is *known only to the module 30*, which implies that such encryption key is not received by a system to which the security module 30 is externally situated. Therefore, Etzel et al. does not teach that "the system receives the key from an external key storage medium via the second input terminal during operation of the system" in addition to other elements of claim 12.

To anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Therefore, all claim elements, and their limitations, must be found in the prior art reference to maintain a rejection based on 35 U.S.C. §102.

-15-

Appln No. 09/844,898
Amdt date September 19, 2005
Reply to Office action of N/A

As discussed above, Etzel et al. does not teach "wherein the system receives the key from an external key storage medium via the second input terminal during operation of the system" in addition to other elements of claim 12. Similarly, Etzel et al. does not teach "receiving a key from an external key storage medium; encryption the digital data using the key; transmitting the encrypted digital data as an output, wherein the steps of receiving the digital data and receiving the key are performed during operation of the data encryption system" in addition to other elements of claim 30. Since Etzel et al. does not teach at least one element in each of claims 12 and 30, Etzel et al. does not anticipate claims 12 and 30. Therefore, applicants request that the rejection of claims 12 and 30 be withdrawn and that they be allowed.
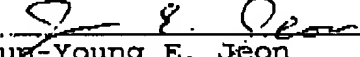
Since claims 13-29 and 31-41 depend, directly or indirectly, from claims 12 and 30, respectively, they each incorporate all the terms and limitations of claim 12 or claim 30 in addition to other limitations, which together further patentably distinguish them over the cited references. Therefore, applicants request that the rejection of claims 13-29 and 31-41 be withdrawn and that they be allowed.

Appln No. 09/844,898
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Reply to Office action of N/A

II. Concluding Remarks

In view of the above in addition to the amendments and arguments given in the August 3, 2005 amendment, applicants respectfully request an early issuance of a patent with claims 1-47. If there are any remaining issues that can be addressed over the telephone, the Examiner is cordially invited to call applicants' attorney at the number listed below.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

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-17-